

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

103)

Crl.Misc.No. M-9131 of 2021

Date of Decision: 09.04.2021

Bhim singh @ Pappu

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH

Present: Mr. Mahipal Yadav, Advocate,
for Mr. Sunny Kumar Singla, Advocate, for the petitioner.
Mr. B.S. Virk, DAG, Haryana.
Mr. Keshav Partap Singh, Advocate, for the complainant.

Amol Rattan Singh, J. (Oral)

Case heard by way of video conferencing.

On 26.02.2021, the following detailed order was passed, reproducing therein the earlier order passed on 13.01.2021 in the previous petition filed by the petitioner, as also the order dated 22.01.2021 passed in that very petition:-

“Case heard via video conferencing.

This is the second petition filed by the petitioner seeking to be admitted to anticipatory bail, upon FIR no.431, dated 30.8.2020, having been registered at Police Station Surajkund, District Faridabad, alleging therein the commission of offences punishable under Sections 148/149/323/324 of the IPC (with Sections 307/325/506 of the IPC having been added later on), the first petition, i.e. CRM-M-1483 of 2021, having been withdrawn when this court was not inclined to make absolute the interim order passed in his favour earlier on 13.1.2021.

The order dated 13.1.2021 is reproduced as follows:-

“Case heard by video conference.

By this petition, the petitioner seeks the concession of 'anticipatory bail' under the provisions of Section 438 Cr.P.C., upon FIR No.431, dated 30.08.2020, having been registered at Police Station Surajkund, District Faridabad, alleging therein the commission of offences punishable under Sections 148, 149, 323 and 324 of the IPC (with Sections 325, 307, 506 IPC added later).

Learned counsel for the petitioner submits that the petitioner has simply been roped in like many others from his family whereas even as per the CCTV footage of the occurrence, he is only seen to be standing by without any active role attributed to him and that even in the FIR no active role is attributed to him.

Notice of motion.

Mr. B. S. Virk, learned DAG, Haryana, accepts notice at the asking of the court on behalf of the respondent State, with Mr. Keshav Partap Singh, Advocate, appearing for the complainant and accepting notice.

Learned counsel for the complainant submits that actually the petitioner is seen armed with a danda, beating the people, even in the CCTV footage and therefore he does not deserve to be admitted to anticipatory bail.

Learned State counsel submits that he has no instructions with regard to the CCTV footage.

Adjourned to 22.01.2021, to enable learned counsel for the complainant, as also the State, to place on record the CCTV footage showing the petitioners' role/lack of it therein, with it made clear that if there is a CCTV footage of the two separate incidents that are stated to have taken place (as has been depicted in the FIR), it shall be clarified by the State as also by learned counsel for the complainant as to which specific incident the CCTV footage as would be placed on record (alongwith still photographs), relates to.

In the meanwhile, in view of the specific and vehement contention of Mr.Dawar that the petitioner actually has not been

attributed any active role even as per the CCTV footage and definitely not even in the FIR, till that date only and specifically, the petitioner be not arrested.”

Thereafter on 22.1.2021, after reproducing the earlier order, the following order was passed by this court:-

“Today, Mr.Dawar learned counsel for the petitioner, upon seeing the photographs as have been taken on record as Annexure P-8, could not deny that the petitioner is actually seen to be armed with a danda.

In view of the above, Mr.Dawar submits that the petitioner does not press this petition.

Dismissed as withdrawn, with the interim order passed on 13.01.2021 obviously vacated.

A photocopy of this order be placed on the file of the connected case.”

Learned counsel for the petitioner submits that the petitioner, i.e. Bhim Singh @ Pappu, is actually not attributed any active role other than throwing bricks and stone and breaking glasses, even as per the FIR; and as regards the CCTV footage that was referred to in the order passed in the first petition, he is seen to be empty handed at the spot, and thereafter, upon he himself being attacked, he in turn/in his own defence took a *danda* in his hand and attacked those who had initiated the fight, and even those injuries as are attributed to him, were simple in nature.

It is to be noticed that when CRM-M-1483-2021 was dismissed on 22.01.2021, the CCTV footage had not actually been played by this court since counsel appearing for the petitioner at that stage, had stated, that upon seeing the CCTV footage, that he was not pressing the petition.

Mr.Keshav Partap, learned counsel for the complainant, points to the order passed on January 13, 2021, in which it has been recorded that counsel for the petitioner (who had appeared in that petition of the same petitioner), had stated that the petitioner

had simply been roped in like many others from his family, whereas even as per the CCTV footage of the occurrence he was only a bystander without any active role attributed to him.

Hence, this court can only conjecture at this stage, that possibly that petition may have been withdrawn on 22.01.2021 because of the earlier statement erroneously made to the effect that the petitioner was only a bystander.

However, definitely in the footage (which has now been seen by the court), the petitioner (who is also identified by counsel for the complainant, other than by counsel for the petitioner), is seen to be coming empty handed and in fact is seen to be even trying to turn back those who are stated to be his co-accused, after which, upon two persons armed with *lathis/dandas*/rods, attacking some person, the petitioner also eventually picked up a *danda* or a *soti* and starting hitting people on the 'opposite side', with him also having been hit by one person.

In such circumstances, which had not been gone into by this court when the first petition was filed, i.e. the CCTV footage had not actually been seen by this court, in my opinion the petitioner deserves to be admitted to interim bail at least this stage, upon which the State would file a reply, (as would counsel for the complainant if he so wishes).

Consequently, the petitioner is directed to join investigation within 5 days and if, upon him so joining, he is sought to be arrested, he shall be released on interim bail, upon his furnishing adequate bail and surety bonds to the satisfaction of the arresting officer/Duty Magistrate, till the next date of hearing.

He shall also comply with all conditions stipulated in Section 438(2) of the Cr.P.C.

If the arresting officer does not join the petitioner in investigation, he would appear before the learned Ilqa Magistrate immediately, who would then summon the arresting officer and

direct him to join the petitioner in investigation, in terms of the order of this Court.

Adjourned to 09.04.2021.”

Today learned State counsel submits on instructions that the petitioner has joined investigation and that the *Danda* has also been recovered from his possession.

Mr. Keshav Partap Singh, appearing for the complainant, however points out that the petitioner not being a resident of the locality where the occurrence took place but being a resident about 2 k.m. away, there was no reason for him to be present at the spot unless there was an intention in his mind of actually attacking the complainant and his party.

Even having considered the aforesaid contention, what was already observed by this court in the last order, is repeated, to the extent that as per the CCTV footage, he was actually seen to be empty handed at the spot, with him seen trying to placate people, but thereafter those whom he was accompanying having been attacked, in turn he himself picked up a *danda* and started beating the attackers and was also hit himself in the occurrence.

That being so, without making any comment on the actual merits of the case, whatsoever, this petition is allowed, with the interim order dated February 26, 2021, granting interim bail to the petitioner, made absolute on the same terms and conditions.

Naturally, if the complainant is aggrieved in any manner, of lack of proper investigation, he/she would be always at liberty to avail of

his/her remedy as per law.

It is also to be observed here that if any other co-accused of the petitioner moves a similar petition seeking to be admitted to bail, such petition would be considered on its individual merits.

09.04.2021
vcgarg

(AMOL RATTAN SINGH)
JUDGE

Whether reasoned/speaking: Yes

Whether reportable: No